

In the Matter of Application 7561 of Ed Wilson
To Appropriate From Rock Creek and a Spring
In Spring Gulch In Mono County
For Agricultural Purposes

Decision A 7561 D - 350

Decided *November 14, 1933*

Appearances at Hearing Held November 13, 1933.

For Applicant
Ed Wilson

No Appearance

For Protestant
Walker River Irrigation District

No Appearance

Examiner: Everett N. Bryan, Supervising Hydraulic
Engineer For Harold Conkling, Deputy
In Charge of Water Rights.

O P I N I O N

Application 7561 was filed by Ed Wilson of Topaz, California, on May 23, 1933, seeking to appropriate a maximum total of 3.0 cubic feet per second of which a maximum of 2.5 cubic feet would be diverted from Rock Creek, also known as Ross Canyon, and a maximum of 1.0 cubic foot per second would be diverted from a spring in Spring Gulch, both being tributaries of West Walker River. The appropriation was sought for irrigation and domestic uses, the diversion from Rock Creek to be made in the NE $\frac{1}{4}$ SE $\frac{1}{4}$, Section 26 Township 8 N, R 23 East, M.D.B. & M., and the diversion from the spring in Spring Gulch to be made in the NE $\frac{1}{4}$ NW $\frac{1}{4}$ Section 25 of the same township and range.

The application was protested by the Walker River Irrigation District upon the ground that there was no unappropriated water in West Walker

River to which Rock Creek and Spring Gulch are tributary and that the diversion proposed would interfere with prior appropriations made by Walker River Irrigation District. Protestant further cited the fact that it had been made defendant with some 200 other users in the States of Nevada and California in a suit brought by the United States of America on behalf of Walker River Indian Reservation to enjoin any additional use of the waters of Walker River by said defendants.

Application 7561 was completed in accordance with the provisions of the Water Commission Act and the rules and regulations of the Division of Water Resources and being protested was set for hearing. Of this hearing both applicant and protestant received due notice. There was, however, no appearance on behalf of either applicant or protestant and applicant has failed to show cause for failure to appear.

Although notified on August 15, August 29, and September 12, 1933, of the desirability of filing an answer to the protest, applicant not only failed to file such answer but failed to acknowledge receipt of the letters referred to. Protestant was accordingly advised, with copy to the applicant, when notices of the hearing were forwarded on October 19th:

"Applicant has failed to respond to recent correspondence and it is therefore assumed that the project has been abandoned. We shall be governed accordingly unless an appearance is made on his behalf at the hearing * * * Under the circumstances, therefore, there will be no need of appearance by the Walker River Irrigation District unless you are further advised."

This course was taken in order to relieve protestant of the cost of an unnecessary appearance at the hearing and explains the cause of failure of protestant to appear.

Applicant received due notice of the hearing by registered mail with a copy of the above notice to protestant and has made no showing in

